

REMARKS

Reconsideration of the Examiner's rejection of the present application is requested respectfully in view of the following remarks.

STATUS OF THE CLAIMS

At the time of the present Action, claims 1-48 were pending in this patent application. Claims 1-4, 7-9, 12, 15, 19-28, 30, 32, 35 and 44 stand rejected. Claims 5, 6, 10, 11, 13, 14, 16-18, 29, 31, 33, 34, 36-43 and 45-48 stand withdrawn from consideration subject to a Restriction Requirement. In accordance with the present amendment, claims 1, 2, 5, 6, 9, 23, 24, 28, 29, 31, 34-36, 45 and 46 have been amended. Claims 3, 4, 7, 8, 10, 11, 14, 15, 17-22, 25-27, 30, 32, 33 and 37-44 have been canceled. Claim 49 has been added. Method claims 13, 16 and 45-48 are considered to be withdrawn in accordance with the restriction requirement. Therefore, claims 1, 2, 5, 6, 9, 23, 24, 28, 29, 31, 34-36, and 49 are presented for consideration.

SUMMARY OF THE OFFICE ACTION

All of the claims have been reviewed in accordance with a Restriction Requirement and a Selection Requirement as originally presented in the Office Action dated March 14, 2008, discussed further below.

Claim 30 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This claim has been canceled, rendering this rejection moot.

All of the remaining claims stand rejected under 35 U.S.C. §103(a) as being unpatentable over Su et al. (US Patent No. 6,389,063).

THE AMENDMENTS

Claims 1, 2, 5, 6, 9, 34 and 35 have been amended in accordance with the selection requirements discussed below. Claims 5, 6, 23, 24, 28, 29, 31, and 34-36 have all been amended to depend directly from claim 1. Withdrawn claims 45 and 46 have been amended to depend from claim 49.

Because R₃ and R_{3a} taken together are now specifically oxygen, claims 29 and 31 have also been amended to ensure that their particular embodiments apply to the groups which are positioned either next to or opposite the R₃/R_{3a} oxygen. This is fully within the scope of the original claims.

Claim 49 has been added to present specific compounds which are all within the scope of amended claim 1.

THE RESTRICTION AND SELECTION REQUIREMENTS

In the Office Action of March 14, 2008, the Examiner identified two groups of claims in a Restriction Requirement. Claims 1-44 were identified as compound and composition claims, and claims 45-48 as process (method of treatment) claims. However, claims 13 and 16 are also process claims, and it is believed that they should be included in the identified second group of claims. Withdrawn claims 44 and 45 depended from now cancelled claims. They have been amended to depend from newly added claim 49. Therefore, the withdrawn pending process claims are now claims 13, 16, and 45-48. Once allowable subject matter in the compound and composition claims is identified, the Examiner is asked to rejoin these process claims, as noted in the Office Action of March 14, 2008.

The compound/composition claims among claims 1-44 were subject to an election of species requirement, as set forth in the Action of March 14. In response to this election requirement, applicants elected Example 1116, as shown in that response and in the present Action. In the present Action, the Examiner proposed a generic description encompassing the elected species. Applicants have amended claim 1 in accordance with the Examiner's suggestions, except as follows.

The Examiner requested a specific methoxy-methyl side group at the R₂ position. Applicant submits that the full scope of R₂ as originally presented in claim 1 is within the scope of a reasonable generic formula based on selected Example. Examples are presented in the application in which R₂ is other than methoxy-methyl. The Examiner has not presented any reason for this limitation to the R₂ group, and reconsideration is respectfully requested.

The Examiner has also suggested that the L₂ linkage be limited to -CH₂-. Although Example 1116 uses a -CH₂- linkage, it is believed that the specification should provide ample support for a generic formulation in which the L₂ linkage includes any C₁₋₄ alkylene group.

Other than these two requested changes, applicants have amended claim 1 in accordance with all of the other suggestions which the Examiner made to define a generic formulation encompassing Example 1116. In addition, the remaining compound claims have been amended or cancelled to conform to the amendments of claim 1. The Examiner is respectfully requested to reconsider the election of species requirement, and to examine the presently amended claims accordingly.

THE REJECTION UNDER 35 U.S.C. §103(a)

Claims 1 *et seq.* stand rejected under 35 U.S.C. §103(a) as being unpatentable over Su *et al.* (US Patent No. 6,369,063). Applicants respectfully traverse this rejection.

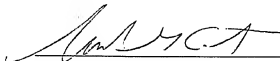
As noted in the Action, Su et al. presents a very broad general formula (I) in column 4. The Examiner has noted that the D linkage to one of the ring nitrogens in the Su formula (I) can be $-SO_2-$, just as the L1 linkage in the presently claimed compound is $-SO_2-$. However, despite the complexity of the Su formula (I), the other ring nitrogen is always linked to its side groups through a methyl-amino linkage ($-CR_1R_2-CO-NH-$). In comparison, the L2 linkage to the second ring nitrogen of the presently claimed compounds is a $-C_{1-4}$ alkyl group. There is no such amino linking group in the general formula of the present invention. The Examiner has also noted specific compound species set forth in columns 18, 21, 23 and 31 of Su, but all of these species clearly show the amino linkage. Furthermore, the Su formula (I) calls for various side groups that would not be within the scope of the general formula of the present invention. This is clearly shown by the same species examples of Su which are noted by the Examiner. It is therefore submitted that Su et al does not show "structurally similar" compounds to those of the present invention, and that the general formula (I) of Su does not provide even a *prima facie* showing of obviousness in regard to the general formula of the present application. The Examiner is therefore respectfully requested to reconsider and withdraw the present rejection under 35 USC §103.

For all of the above reasons, it is submitted that all of the claims pending in the present application are now in condition for allowance, and action to that effect is respectfully requested. In addition, rejoinder of the withdrawn process claims is also requested.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment resulting from this Amendment to Deposit Account 18-1982.

Respectfully submitted,

January 21, 2009



Ronald G. Ort, Reg. No. 26,969
Attorney for Applicants

sanofi-aventis U.S. LLC
Patent Department
Route #202-206 / P.O. Box 6800
Bridgewater, NJ 08807-0800
Telephone (908) 231-2551
Telefax (908) 231-2626